

AN ORDINANCE BY



01-0-0609

AN ORDINANCE TO DELETE SECTION 2-1483. 'LIABILITY OF CITY OFFICERS AND EMPLOYEES FOR UNAUTHORIZED CONTRACTS.' AND TO REPLACE IT WITH A NEW SECTION 2-1483; AND FOR OTHER PURPOSES.

WHEREAS, it is in the best interest of the city not to incur expenditures of funds, under certain circumstances, without the express approval of the City Council; and

WHEREAS, it is not appropriate for any officer or employee of the city to incur any further financial obligation or liability for the city, with regard to pre-existing or current contracts without the approval of the City Council and the Mayor; and

WHEREAS, the City of Atlanta should not be required to expend any funds to make reparation for any losses caused by the negligent actions of any officer, employee or former employee and should be able to take civil action with regard to such negligent actions.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA ORDAINS as follows:

Section 1: That the current Section 2-1483 (attached) be deleted in its entirety.

Section 2: That a new Section 2-1483 be created with the following language:

Section 2-1483. Liability of city officers, employees and former employees for unauthorized contracts.

If any officer or employee of the city shall create any actual legal liability against himself or herself or the city under the following circumstances;

- (1) Such officer or employee requests or knowingly permits any person to proceed or to continue with the performance of any construction or services, including consulting services, for the city, or to provide supplies to the city, under standard or emergency conditions; and
- (2) The construction, service, consulting services or the provision of supplies was not duly authorized by the council and the Mayor's designee, in accordance with the Atlanta City Charter and this code of ordinances, either under standard or emergency conditions, prior to the performance of the construction, service, consulting services

or provision of supplies, and such officer or employee knew or should have know such fact; and

- (3) The contractor or supplier expends money, incurs liability or otherwise acts to its financial detriment in reliance upon the representation of the city officer, employee, or former employee involved; and
- (4) Any city officer, employee or former employee incurs any financial obligation or liability, either directly or indirectly, for the city, regarding any pre-existing contract relating to a specific financial allocation for construction, services, consulting services, goods or provision of supplies, without the express authorization of the Council and the Mayor or his designee;

Then in such event, the Chief Operating officer and department head, considering the recommendation of the Finance/Executive Committee, in the case of an employee, or the Mayor, considering the recommendation of the Finance/Executive Committee, in the case of an appointed official, as the case may be, determines, with the consideration of the Finance/Executive Committee, that such circumstances exist or existed, that there are not mitigating or extenuating factors sufficient to justify the actions of the officer, employee or former employee, and that just cause exists for the discharge of the offending officer or employee, then such offending officer or employee shall be discharged from his or her employment with the city, subject to the labor-management relations ordinance in chapter 114, article VI of this code, where appropriate. Furthermore, the offending officer, employee or former employee shall be personally and pecuniarily liable to the affected person or the city as a matter of law. If the city is required to expend any funds, either directly or indirectly, to make reparation for any losses, either direct or indirect, caused by the above, such officer, employee or former employee shall be personally and pecuniarily liable to the city for such funds and the city attorney shall be authorized to file a civil action in an appropriate court against the offending officer, employee or former employee, to recover such sums on behalf of the city and all costs of the court action.

PART II CODE OF ORDINANCES--GENERAL ORDINANCES

Chapter 2 ADMINISTRATION*

ARTICLE X. PROCUREMENT AND REAL ESTATE CODE*

DIVISION 13. ETHICS IN PUBLIC CONTRACTING*

Sec. 2-1483. Liability of city officers and employees for unauthorized contracts.

Sec. 2-1483. Liability of city officers and employees for unauthorized contracts.

If any officer or employee of the city shall create any actual legal liability against himself or herself or the city under the following circumstances:

- (1) Such officer or employee requests or knowingly permits any person to proceed or to continue with the performance of any construction or services for the city, or to provide supplies to the city; and
- (2) The construction or service, or the provision of supplies was not duly authorized by the city council or the mayor or the mayor's designee, in accordance with the Atlanta City Charter and this code of ordinances, prior to the performance of the construction, service, or provision of supplies, and such officer or employee knew or should have known such fact; and
- (3) The contractor or supplier expends money, incurs liability or otherwise acts to its financial detriment in reliance upon the representation of the city officer or employee involved;

then in such event, if the chief operating officer and department head, in the case of an employee, or the mayor, in the case of an appointed official, as the case may be, determines that such circumstances exist, that there are no mitigating or extenuating factors sufficient to justify the actions of the officer or employee, and that just cause exists for the discharge of the offending officer or employee of the city, then such offending officer or employee shall be discharged from his or her employment with the city, subject to the labor-management relations ordinance in chapter 114, article VI of this code, where appropriate.

(Ord. No. 1996-05, § 1, 1-22-96)

Sec. 2-1484. Gratuities and kickbacks.

(a) *Former employees.* Unless otherwise provided, in accordance with section 2-808, no former officer or employee shall participate directly or indirectly in a city procurement for a period of six months after termination of service or employment with the city.

(b) *Gratuities.* In accordance with this division and article VII, division 2 of this chapter, it shall be unethical for any person to offer, give or agree to give any employee or former employee or for any employee or former employee to solicit, demand, accept or agree to accept from another person a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation or any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy or other particular matter pertaining to any program requirement or a contract or subcontract or to any solicitation or proposal therefor.

(c) *Kickbacks.* It shall be unethical for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or any person associated therewith as an inducement for the award of a subcontract or order.

(d) *Contract clause.* The prohibition against gratuities and kickbacks prescribed in this section shall be conspicuously set forth in every contract and solicitation therefor.

(Code 1977, § 5-5184)

Sec. 2-1485. Contingent fees.

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(Do Not Write Above This Line)

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BY:

Delia A. Brown

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First Reading

Committee

Date

Chair

Referred to

Committee

Date

Chair

Action:

Fav, Adv, Hold (see rev. side)

Other:

Members

Refer To

Committee

Date

Chair

Action:

Fav, Adv, Hold (see rev. side)

Other:

Members

Refer To

Committee

Date

Chair

Action:

Fav, Adv, Hold (see rev. side)

Other:

Members

Refer To

Committee

Date

Chair

Action:

Fav, Adv, Hold (see rev. side)

Other:

Members

Refer To

CERTIFIED

☐ 2nd ☐ 1st & 2nd ☐ 3rd
Readings
☐ Consent ☐ V Vote ☐ CRC Vote

MAYOR'S ACTION

- ☐ CONSENT REFER
- ☐ REGULAR REPORT REFER
- ☐ ADVERTISE & REFER
- ☐ 1st ADOPT 2nd READ & REFER
- ☒ PERSONAL PAPER REFER

Date Referred

4/2/01

Referred To:

Finance / Spec

Date Referred

Referred To:

Date Referred

Referred To: